IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)
	)
Roy BEN-YOSEPH	) Group Art Unit: 2478
	)
Application No.: 10/747,682	) Examiner: Shaq TAHA
	)
Filed: December 30, 2003	)
	) Confirmation No.: 3174
For: IDENTIFYING AND USING IDENTITIES	)
DEEMED TO BE KNOWN TO A USER	) **VIA EFS WEB**

Attention: Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPEAL BRIEF UNDER BOARD RULE § 41.37

In support of the Notice of Appeal filed April 4, 2011, and further to Board

Rule 41.37, Appellant presents this brief and enclose herewith the fee of $540.00

required under 37 C.F.R. § 41.20(b)(2).

This Appeal Brief is being filed concurrently with a Petition for an Extension of

Time for two months, and the appropriate fee.

This Appeal responds to the December 2, 2010, final rejection of claims 1-8, 10-

14, 17-30, 35, 39-45, 47, and 49-55.

If any additional fees are required or if the enclosed payment is insufficient,

Appellant requests that the required fees be charged to Deposit Account 06-0916.

Table of Contents

I. **Real Party In Interest**

AOL Inc. is the real party in interest.

II.   Related Appeals and Interferences

There are currently no other appeals or interferences, of which appellant, appellant's legal representative, or assignee are aware, that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. **Status Of Claims**

Claims 1-8, 10-14, 17-30, 35, 39-45, 47, and 49-55 are rejected and the subject of this appeal.

Claims 9, 15, 16, 31-34, 36-38, 46, and 48 were previously cancelled.

IV.   **Status Of Amendments**

No amendments have been filed subsequent the Final Office Action of

December 2, 2010. Nevertheless, the Advisory Action of March 30, 2011 denies entry

of non-existent amendments. Advisory Action, p. 2.

V. Summary Of Claimed Subject Matter

Of the appealed claims, claims 1, 23, 45, 50, and 53 are independent. None of the independent claims include any means plus function or step plus function language. A concise explanation of the subject matter of the independent claims on appeal, referring to the specification by page and line number, and to the drawings by reference characters, is set forth below. Claims 2-8, 10-14, 17-22, 24-30, 35, 39-44, 47, 49, 51, 52, 54, and 55 are the dependent claims involved in this appeal.

The following summary of the presently claimed subject matter indicates portions of the specification (including the drawings) that provide examples of embodiments of elements of the claimed subject matter. It is to be understood that other portions of the specification not cited herein may also provide examples of embodiments of elements of the claimed subject matter. It is also to be understood that the indicated examples are merely examples, and the scope of the claimed subject matter includes alternative embodiments and equivalents thereof. References herein to the specification are thus intended to be exemplary and not limiting.

Independent Claim 1

Independent claim 1 recites a method of providing online presence information. The method comprises maintaining, on one or more computers, a list of people that is known to a user. *See, e.g.,* Specification, p. 17, ll. 11-24; Fig. 8, 802; Fig. 2, 200. The method further comprises determining, at the one or more computers, that a person is known to the user based, at least in part, on one or more actions performed by the user on one or more messages received by the user from the person, the actions including one or more of (1) saving the one or more messages from the person; (2) printing the

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one or more messages from the person; (3) moving the one or more messages from the person from an inbox to a folder; and (4) leaving the one or more messages from the person open for a predetermined period of time. *See, e.g.,* Specification, p. 14, ll. 15-31; Fig. 8, 804; Fig. 2, 220. The method further comprises in response to determining that the person is known to the user, adding the person to the maintained list. *See, e.g.,* Specification, p. 19, ll. 6-7; Fig. 2, 220. The method further comprises accessing, at the one or more computers, the maintained list of people determined to be known to a user. *See, e.g.,* Specification, p. 19, ll. 6-7; Fig. 2, 234. The method further comprises accessing, at the one or more computers, online presence information for the user. *See, e.g.,* Specification, p. 25, ll. 18-32; Fig. 2, 234. The method further comprises determining, at the one or more computers, a potential receiver of the online presence information. *See, e.g.,* Specification, p. 25, ll. 18-32; Fig. 2, 234. The method further comprises comparing, at the one or more computers, the potential receiver to the accessed list to determine if the potential receiver is included on the list. *See, e.g.,* Specification, p. 25, ll. 18-32; Fig. 2, 234. The method further comprises determining, at the one or more computers, whether to communicate the online presence information to the potential receiver based on whether the potential receiver is included in the list. *See, e.g.,* Specification, p. 25, ll. 23-32; Fig. 2, 234.

Independent Claim 23

Independent claim 23 recites computer-usable medium having a computer program embodied thereon for providing online presence information, the computer program comprising instructions for causing a computer to perform operations. The instructions include an operation to maintain a list of people that is known to a user.

See, e.g., Specification p. 17, ll. 11-24; Fig. 8, 802; Fig. 2, 200. The instructions include

an operation to determine that a person is known to the user based, at least in part, on

one or more actions performed by the user on one or more messages received by the

user from the person, the actions including one or more of (1) saving the one or more

messages from the person; (2) printing the one or more messages from the person; (3)

moving the one or more messages from the person from an inbox to a folder; and (4)

leaving the one or more messages from the person open for a predetermined period of

time. *See, e.g.,* Specification, p. 14, ll. 15-31; Fig. 8, 804; Fig. 2, 220. The instructions

include an operations to, in response to determining that the person is known to the

user, add the person to the maintained list. *See, e.g.,* Specification, p. 19, ll. 6-7; Fig. 2,

220. The instructions further include an operation to access the maintained list of

people determined to be known to a user. *See, e.g.,* Specification, p. 19, ll. 6-7; Fig. 2,

234. The instructions further include an operation to access online presence

information for the user. *See, e.g.,* Specification, p. 25, ll. 18-32; Fig. 2, 234. The

instructions further include an operation to determine a potential receiver of the online

presence information. *See, e.g.,* Specification, p. 25, ll. 18-32; Fig. 2, 234. The

instructions further include an operation to compare the potential receiver to the

accessed list to determine if the potential receiver is included on the list. *See, e.g.,*

Specification, p. 25, ll. 18-32; Fig. 2, 234. The instructions further include an operation

to determine whether to communicate the online presence information to the potential

receiver based on whether the potential receiver is included in the list. *See, e.g.,*

Specification, p. 25, ll. 23-32; Fig. 2, 234.

Independent Claim 45

Independent claim 45 recites an apparatus for providing online presence information. The apparatus includes means for maintaining a list of people that is known to a user. *See, e.g.,* Specification, p. 17, ll. 11-24; Fig. 8, 802; Fig. 2, 202. The corresponding includes, for example, the portion process 200 of Figure 2 and the corresponding hardware and/or software for performing the functionality. The apparatus further includes means for determining that a person is known to the user based, at least in part, on one or more actions performed by the user on one or more messages received by the user from the person, the actions including one or more of (1) saving the one or more messages from the person; (2) printing the one or more messages from the person; (3) moving the one or more messages from the person from an inbox to a folder; and (4) leaving the one or more messages from the person open for a predetermined period of time. *See, e.g.,* Specification, p. 14, ll. 15-31; Fig. 8, 804; Fig. 2, 220. The corresponding includes, for example, the portion process 200 of Figure 2 and the corresponding hardware and/or software for performing the functionality. The apparatus further includes means for in response to determining that the person is known to the user, adding the person to the maintained list. *See, e.g.,* Specification, p. 19, ll. 6-7; Fig. 2, 220. The corresponding includes, for example, the portion process 200 of Figure 2 and the corresponding hardware and/or software for performing the functionality. The apparatus includes means for accessing the maintained list of people known to a user. *See, e.g.,* Specification, p. 19, ll. 6-7; Fig. 2, 234. The corresponding includes, for example, the portion process 200 of Figure 2 and the corresponding hardware and/or software for performing the functionality. The apparatus includes

means for accessing online presence information for the user. *See, e.g.,* Specification,

p. 25, ll. 18-32; Fig. 2, 234. The corresponding includes, for example, the portion

process 200 of Figure 2 and the corresponding hardware and/or software for performing

the functionality. The apparatus includes means for determining a potential receiver of

the online presence information. *See, e.g.,* Specification, p. 25, ll. 18-32; Fig. 2, 234.

The corresponding includes, for example, the portion process 200 of Figure 2 and the

corresponding hardware and/or software for performing the functionality. The method

further includes means for comparing the potential receiver to the maintained list to

determine if the potential receiver is included on the list. *See, e.g.,* Specification, p. 25,

ll. 18-32; Fig. 2, 234. The corresponding includes, for example, the portion process 200

of Figure 2 and the corresponding hardware and/or software for performing the

functionality. The apparatus includes means for determining whether to communicate

the online presence information to the potential receiver based on whether the potential

receiver is included in the list. *See, e.g.,* Specification, p. 25, ll. 23-32; Fig. 2, 234. The

corresponding includes, for example, the portion process 200 of Figure 2 and the

corresponding hardware and/or software for performing the functionality.

Independent Claim 50

Independent claim 50 recites a method of providing online presence information,

the method. The method includes maintaining, on one or more computers, a list of

people or addresses that are authorized to receive online presence information of a

user based, at least in part, on one or more actions performed by the user on one or

more messages received by the user from the person or address, the actions including

one or more of (1) saving the one or more messages from the person or address; (2)

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printing the one or more messages from the person or address; (3) moving the one or more messages from the person or address from an inbox to a folder; and (4) leaving the one or more messages from the person or address open for a predetermined period of time. *See, e.g.,* Specification, p. 14, ll. 15-31; Fig. 8, 804; Fig. 2, 220. The method further comprises accessing, at the one or more computers, online presence information for the user. *See, e.g.,* Specification, p. 19, ll. 6-7; Fig. 2, 220. The method further comprises determining, at the one or more computers, a potential receiver of the online presence information. *See, e.g.,* Specification, p. 25, ll. 18-32; Fig. 2, 234. The method further comprises comparing, at the one or more computers, the potential receiver to the list of authorized people or addresses. *See, e.g.,* Specification, p. 25, ll. 18-32; Fig. 2, 234. The method further comprises determining, at the one or more computers, whether to communicate the online presence information to the potential receiver based on whether the potential receiver is included in the list. *See, e.g.,* Specification, p. 25, ll. 23-32; Fig. 2, 234.

Independent Claim 53

Independent claim 53 recites a system of providing online presence information. The system comprises a processor of executing a set of instructions. *See, e.g,* Specification, p. 27, ll. 10-12. The system further comprises a storage medium for storing the set of instruction. *See, e.g.,* Specification, p. 27, ll. 15-19. The instructions including instructions for maintaining, on one or more computers, a list of people or addresses that are authorized to receive online presence information of a user based, at least in part, on one or more actions performed by the user on one or more messages received by the user from the person or address, the actions including one or more of

(1) saving the one or more messages from the person or address; (2) printing the one or more messages from the person or address; (3) moving the one or more messages from the person or address from an inbox to a folder; and (4) leaving the one or more messages from the person or address open for a predetermined period of time. *See, e.g.,* Specification, p. 14, ll. 15-31; Fig. 8, 804; Fig. 2, 220. The institutions also including instructions for accessing, at the one or more computers, online presence information for the user. *See, e.g.,* Specification, p. 25, ll. 18-32; Fig. 2, 234. The instructions also including instructions for determining, at the one or more computers, a potential receiver of the online presence information. *See, e.g.,* Specification, p. 25, ll. 18-32; Fig. 2, 234. The instructions also include instructions for comparing, at the one or more computers, the potential receiver to the list of authorized people or addresses. *See, e.g.,* Specification, p. 25, ll. 18-32; Fig. 2, 234. The instructions also include instructions for determining, at the one or more computers, whether to communicate the online presence information to the potential receiver based on whether the potential receiver is included in the list. *See, e.g.,* Specification, p. 25, ll. 23-32; Fig. 2, 234.

VI. Grounds of Rejection

A. Claims 1-8, 10, 12, 13, 17-30, 35, 39-45, 47, and 49-55 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,839,737 to Friskel et al. ("*Friskel*") in view of U.S. Patent Application Publication No. 2004/0054733 to Weeks et al. ("*Weeks*").

B. Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Friskel* in view of *Weeks* and further in view of U.S. Patent Application Publication No. 2005/0086305 to Koch et al. ("*Koch*").

C. Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Friskel, in view of Weeks and further in view of U.S. Patent Application Publication No. 2003/0212745 to Caughey et al. ("*Caughey*").

VII. Argument

In the Final Office Action mailed December 2, 2010 (the "Office Action"), the

Examiner rejected each of the independent claims (claims 1, 23, 45, 50, and 53) under

35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,839,737 to Friskel et

al. ("*Friskel*") in view of U.S. Patent Application Publication No. 2003/0078981 to Harms

et al. ("*Harms*").

Appellant respectfully submits that the rejection of the independent claims under

35 U.S.C. § 103(a) is erroneous and should be reversed. A *prima facie* case of

obviousness has not been established, at least because there are significant differences

between the cited art and Appellant's claims.

For example, independent claim 1 recites a combination of elements including,

among other things,

> determining, at the one or more computers, that a person is
> known to the user based, at least in part, on one or more
> actions performed by the user on one or more messages
> received by the user from the person, the actions including
> one or more of (1) saving the one or more messages from
> the person; (2) printing the one or more messages from the
> person; (3) moving the one or more messages from the
> person from an inbox to a folder; and (4) leaving the one or
> more messages from the person open for a predetermined
> period of time.

The cited prior art, alone or in any proper combination, fails to disclose or

suggest at least the above subject matter of claim 1.

On pages 4-5 of the Office Action, the Examiner concedes that

> Friskel et al. fails to teach determining that a person is
> known to the user based, at least in part, on one or more
> actions performed by the user on one or more messages
> received by the user from the person, the actions including

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one or more of (1) saving a message from the person; (2)
printing a message from the person; (3) moving a message
from the person from a first folder to a second folder; and (4)
leaving a message from the person open for a
predetermined period of time.

However, the Examiner relies upon *Harms*. Office Action, p. 5. This is incorrect.

Harms fails to cure the deficiencies of *Friskel*. The Office Action asserts, on

page 5, that "Harms et al. teaches [that] the method automatically adds all contacts

found in the inbox to the contact list, wherein the sender of the received messages that

were open for a predetermined time and saved in an inbox will be added automatically

to a contact list, (Harms et al., Paragraph 45)." However, paragraph 45 of *Harms*

merely states that "the method [of *Harms*] automatically adds **all** contacts found in the

Inbox to the contact list that are not already there." (Emphasis added.) Nothing in this

section, nor any other section of *Harms*, discloses or suggests that the received

messages were "open for a predetermined time" and "saved in an inbox" by the user, as

asserted in the Office Action.

Additionally, irrespective of the assertions in the Office Action, *Harms* still fails to

disclose or suggest the aforementioned subject matter of claim 1. Claim 1 recites

"determining . . . that a person is known to the user **based . . . on one or more actions**

performed by the user." (Emphasis added.) In contrast, *Harms* adds contacts to a list

based on the location of messages in the inbox, instead of based on actions performed

by a user. That is, even if some of the messages were opened or saved by a user,

Harms does not teach adding contacts based on the actions performed by the user.

Instead, as noted above, according to *Harms*, **all** contacts found in the inbox are simply

added to the contact list.

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In the Advisory Action of March 30, 2001 ("the Advisory Action"), the Examiner

disagreed with Appellant's arguments and asserted the following:

> Harms et al. teaches a system and method of populating a
> contatc [sic] list on a portable device. Harms teaches that
> once a message is received the user opens the message
> and based on opening the message the sender's contact is
> added to the receiver's contact list. Fig.s [sic] 2 and 4
> explains the procedure. In Fig. 2 Ref # 240, once a message
> is received and opened for some time then it is determined
> that the sender is known to the user and added to the user's
> contatc [sic] list and the user has the option to add or not to
> add as shown in Fig. 4 and explained in Paragraphs 27 and
> 45.

As an initial matter, the Examiner's statement that "Harms teaches that once a

message is received the user opens the message and based on opening the message

the sender's contact is added to the receiver's contact list" is a mischaracterization of

Harms. Nothing in *Harms* discloses any relationship between the user opening a

message and adding a sender to the contact list of *Harms*. At best, *Harms merely*

discloses two distinct operations: (i) a user opening a message; and (ii) adding a

contact to a contact list.

The above mischaracterization of *Harms* is apparent upon scrutiny of the alleged

support in *Harms*. For example, the Advisory Action asserts that, "[i]n Fig. 2 Ref # 240,

once a message is received and opened for some time then it is determined that the

sender is known to the user and added to the user's contatc [sic] list and the user has

the option to add or not to add as shown in Fig. 4 and explained in Paragraphs 27 and

45." The Examiner appears to be asserting that a user can open a message for a

period of time and, at a later time, the user has the option to add a contact to a contact

list. Even if this were correct, which Appellants do not concede, that does not mean that

Harms teaches "determining . . . that a person is known to the user based . . . on one or more actions performed by the user on one or more messages received by the user from the person, the actions including . . . leaving the one or more messages from the person open for a predetermined period of time," at least because *Harms* fails to disclose any determination of whether to add the contact to the contact list based on the message being open for a predetermined period of time.

In view of the foregoing, there are significant differences between the cited prior art and independent claim 1 that the Office Action fails to address. Accordingly, no *prima facie* case of obviousness exists with respect to claim 1, and the rejection for claim 1 should be withdrawn.

Independent claims 23, 45, 50, and 53, while different in scope from claim 1 and each other, distinguish over the cited art for at least similar reasons to that presented above for claim 1. Accordingly, the rejections based on *Friskel* and *Harms* should be reversed and these independent claims should be allowed.

The rejection of dependent claims 2-8, 10-14, 17-22, 24-30, 35, 39, 40, 47, 49, 51, 52, 54, and 55 depend upon the independent claims from which they depend. Accordingly, the rejection of these dependent claims is also erroneous and should be reversed. Moreover, claims 2-8, 10-14, 17-22, 24-30, 35, 39, 40, 47, 49, 51, 52, 54, and 55 are allowable in view of the additional features that are cited by these dependent claims, which are neither disclosed nor suggested by the cited prior art.

Conclusion

For the reasons given above, the pending claims are allowable and reversal of the Examiner's rejection is respectfully requested.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this Appeal Brief, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 4, 2011   By: /C. Gregory Gramenopoulos/
                         C. Gregory Gramenopoulos
                         Reg. No. 36,532

VIII. Claims Appendix to Appeal Brief Under Rule 41.37(c)(1)(viii)

1.   A method of providing online presence information:

maintaining, on one or more computers, a list of people that is known to a user;

determining, at the one or more computers, that a person is known to the user

based, at least in part, on one or more actions performed by the user on one or more

messages received by the user from the person, the actions including one or more of

(1) saving the one or more messages from the person; (2) printing the one or more

messages from the person; (3) moving the one or more messages from the person from

an inbox to a folder; and (4) leaving the one or more messages from the person open

for a predetermined period of time;

in response to determining that the person is known to the user, adding the

person to the maintained list;

accessing, at the one or more computers, the maintained list of people

determined to be known to a user;

accessing, at the one or more computers, online presence information for the

user;

determining, at the one or more computers, a potential receiver of the online

presence information;

comparing, at the one or more computers, the potential receiver to the accessed

list to determine if the potential receiver is included on the list; and

determining, at the one or more computers, whether to communicate the online

presence information to the potential receiver based on whether the potential receiver is

included in the list.

2.   The method of claim 1 wherein determining whether to communicate the online presence information to the potential receiver comprises determining to not communicate the online presence information to the potential receiver when the potential receiver is not included in the list.

3.   The method of claim 1 wherein determining whether to communicate the online presence information to the potential receiver comprises determining whether to communicate the online presence information to an instant messaging application of the potential receiver.

4.   The method of claim 1 wherein determining whether to communicate the online presence information to the potential receiver comprises determining whether to display the online presence information on a web page.

5.   The method of claim 1 wherein determining whether to communicate the online presence information to the potential receiver comprises determining whether to display the online presence information in member search results.

6.   The method of claim 1 wherein determining whether to communicate the online presence information to the potential receiver comprises determining whether to display the online presence information in a member profile.

7.   The method of claim 1 wherein determining whether to communicate the online presence information to the potential receiver comprises determining whether to communicate the online presence information to the potential receiver when a request for online presence information is received from the potential receiver.

8.   The method of claim 1 wherein determining whether to communicate the online presence information to the potential receiver comprises determining whether to communicate the online presence information to the potential receiver absent a request from the potential receiver for the online presence information.

10.   The method of claim 1 wherein the actions performed by the user on one or more messages received by the user from the person include saving an e-mail received from the person.

11.   The method of claim 1 wherein the actions performed by the user on one or more messages received by the user from the person include printing an e-mail received from the person.

12.   The method of claim 1 wherein the actions performed by the user on one or more messages received by the user from the person include moving an e-mail from a first folder to a second folder.

13.   The method of claim 12 wherein the folder is a folder other than a delete folder or a spam folder.

14.   The method of claim 1 wherein the actions performed by the user on one or more messages received by the user from the person includes leaving an e-mail from the person open for a predetermined period of time.

17.   The method of claim 1 wherein determining that a person is known to the user based, at least in part, on one or more actions performed by the user on one or more messages received by the user from the person further comprises inferring that a person is known to the user, wherein inferring comprises:

accessing a contact list of the user to determine a first contact on the user's contact list; and

accessing a contact list of the first contact to determine a second contact on the first contact's contact list.

18.   The method of claim 1 wherein determining that a person is known to the user based, at least in part, on one or more actions performed by the user on one or more messages received by the user from the person includes detecting user actions that mitigate against factors that otherwise are used to determine a person is known to the user.

19.   The method of claim 18 wherein the user actions comprise the user taking steps to label a communication from the person as spam.

20.   The method of claim 18 wherein the user actions comprise the user taking steps to add a person to a blacklist.

21.   The method of claim 18 wherein the user actions comprise the user taking steps to move a communication from the person to either of a spam folder or a delete folder.

22.   The method of claim 1 further comprising:

enabling the user to expressly designate a person as known to the user; and

adding the designated person to the list.

23.   A computer-usable medium having a computer program embodied thereon for providing online presence information, the computer program comprising instructions for causing a computer to perform the following operations:

maintain a list of people that is known to a user;

determine that a person is known to the user based, at least in part, on one or more actions performed by the user on one or more messages received by the user from the person, the actions including one or more of (1) saving the one or more messages from the person; (2) printing the one or more messages from the person; (3) moving the one or more messages from the person from an inbox to a folder; and (4)

leaving the one or more messages from the person open for a predetermined period of time;

in response to determining that the person is known to the user, add the person to the maintained list

access the maintained list of people determined to be known to a user;

access online presence information for the user;

determine a potential receiver of the online presence information;

compare the potential receiver to the accessed list to determine if the potential receiver is included on the list; and

determine whether to communicate the online presence information to the potential receiver based on whether the potential receiver is included in the list.

24. The medium of claim 23 wherein, to determine whether to communicate the online presence information to the potential receiver, the computer program further comprises instructions for causing the computer to determine to not communicate the online presence information to the potential receiver when the potential receiver is not included in the list.

25. The medium of claim 23 wherein, to determine whether to communicate the online presence information to the potential receiver, the computer program further comprises instructions for causing the computer to determine whether to communicate the online presence information to an instant messaging application of the potential receiver.

26.   The medium of claim 23 wherein, to determine whether to communicate

the online presence information to the potential receiver, the computer program further

comprises instructions for causing the computer to determine whether to display the

online presence information on a web page.

27.   The medium of claim 23 wherein, to determine whether to communicate

the online presence information to the potential receiver, the computer program further

comprises instructions for causing the computer to determine whether to display the

online presence information in member search results.

28.   The medium of claim 23 wherein, to determine whether to communicate

the online presence information to the potential receiver, the computer program further

comprises instructions for causing the computer to determine whether to display the

online presence information in a member profile.

29.   The medium of claim 23 wherein, to determine whether to communicate

the online presence information to the potential receiver, the computer program further

comprises instructions for causing the computer to determine whether to communicate

the online presence information to the potential receiver when a request for online

presence information is received from the potential receiver.

30.   The medium of claim 23 wherein, to determine whether to communicate the online presence information to the potential receiver, the computer program further comprises instructions for causing the computer to determine whether to communicate the online presence information to the potential receiver absent a request from the potential receiver for the online presence information.

35.   The medium of claim 23 wherein the folder is a folder other than a delete folder or a spam folder.

39.   The medium of claim 23 wherein the computer program further comprises instructions for causing the computer to determine that a person is known to the user further comprises instructions for causing the computer to:

access a contact list of the user to determine a first contact on the user's contact list; and

access a contact list of the first contact to determine a second contact on the first contact's contact list.

40.   The medium of claim 23 wherein the computer program further comprises instructions for causing the computer to determine that a person is known to the user based, at least in part, on detecting user actions that mitigate against factors that otherwise are used to determine a person is known to the user.

41.   The medium of claim 40 wherein the user actions comprise the user taking steps to report a communication from the person as spam.

42.   The medium of claim 40 wherein the user actions comprise the user taking steps to add a person to a blacklist.

43.   The medium of claim 40 wherein the user actions comprise the user taking steps to move a communication from the person to either of a spam folder or a delete folder.

44.   The medium of claim 23 wherein the computer program further comprises instructions for causing the computer to:

enable the user to expressly designate a person as known to the user; and

add the designated person to the list.

45.   An apparatus for providing online presence information:

means for maintaining a list of people that is known to a user;

means for determining that a person is known to the user based, at least in part, on one or more actions performed by the user on one or more messages received by the user from the person, the actions including one or more of (1) saving the one or more messages from the person; (2) printing the one or more messages from the person; (3) moving the one or more messages from the person from an inbox to a

folder; and (4) leaving the one or more messages from the person open for a predetermined period of time;

means for in response to determining that the person is known to the user, adding the person to the maintained list;

means for accessing the maintained list of people known to a user;

means for accessing online presence information for the user;

means for determining a potential receiver of the online presence information;

means for comparing the potential receiver to the maintained list to determine if the potential receiver is included on the list; and

means for determining whether to communicate the online presence information to the potential receiver based on whether the potential receiver is included in the list.

47.   The method of claim 1 further comprising:

determining that a person is known to the user by accessing a contact list of the user.

49.   The medium of claim 23 wherein the computer program further comprises instructions for causing the computer to:

determine that a person is known to the user by accessing a contact list of the user.

50.   A method of providing online presence information, the method comprising:

maintaining, on one or more computers, a list of people or addresses that are

authorized to receive online presence information of a user based, at least in part, on

one or more actions performed by the user on one or more messages received by the

user from the person or address, the actions including one or more of (1) saving the one

or more messages from the person or address; (2) printing the one or more messages

from the person or address; (3) moving the one or more messages from the person or

address from an inbox to a folder; and (4) leaving the one or more messages from the

person or address open for a predetermined period of time;

accessing, at the one or more computers, online presence information for the

user;

determining, at the one or more computers, a potential receiver of the online

presence information;

comparing, at the one or more computers, the potential receiver to the list of

authorized people or addresses; and

determining, at the one or more computers, whether to communicate the online

presence information to the potential receiver based on whether the potential receiver is

included in the list.

51.   The method of claim 50 wherein the folder comprises a folder other than a

delete folder or a spam folder.

52.   The method of claim 50 wherein maintaining, on one or more computers,

the list of people or addresses that are authorized to receive online presence

information of the user is further based, at least in part, on detecting user actions that

mitigate against factors that otherwise are used to determine the person or address is

known to the user.

53.   A system of providing online presence information, the system comprising:

a processor of executing a set of instructions; and

a storage medium for storing the set of instruction, the instructions including

instructions for:

maintaining, on one or more computers, a list of people or addresses that

are authorized to receive online presence information of a user based, at least in

part, on one or more actions performed by the user on one or more messages

received by the user from the person or address, the actions including one or

more of (1) saving the one or more messages from the person or address; (2)

printing the one or more messages from the person or address; (3) moving the

one or more messages from the person or address from an inbox to a folder; and

(4) leaving the one or more messages from the person or address open for a

predetermined period of time;

accessing, at the one or more computers, online presence information for

the user;

determining, at the one or more computers, a potential receiver of the

online presence information;

comparing, at the one or more computers, the potential receiver to the list

of authorized people or addresses; and

determining, at the one or more computers, whether to communicate the

online presence information to the potential receiver based on whether the

potential receiver is included in the list.

54.   The system of claim 53 wherein the folder comprises a folder other than a

delete folder or a spam folder.

55.   The system of claim 53 wherein maintaining, on one or more computers,

the list of people or addresses that are authorized to receive online presence

information of the user is further based, at least in part, on detecting user actions that

mitigate against factors that otherwise are used to determine the person or address is

known to the user.

IX. Evidence Appendix to Appeal Brief Under Rule 41.37(c)(1)(ix)

None.

X.   Related Proceedings Appendix to Appeal Brief Under Rule 41.37(c)(1)(x)

None.